

U.S. Department of Labor

Office of Federal Contract
Compliance Programs
200 Constitution Avenue, N.W.
Washington, D.C. 20210



DEC 07 2012

Ms. Julianne Pepitone
CNNMoney

RE: Freedom of Information Act Request – Tracking No. 672075

Dear Ms. Pepitone:

This letter is the final response to your Freedom of Information Act (FOIA) request submitted to the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). Your FOIA request tracking number is 672075. Please make reference to this number in any future communiqués regarding this specific FOIA request.

Your request asks for copies of EEO-1 Consolidated Report (status 2) and Headquarters Report (status 3) data for 20 companies from 2004 to the most recent year available.

The 20 companies listed in your FOIA request for which you ask for the EEO-1 reports are:

Hewlett-Packard Co.
International Business Machines Corp. (IBM)
Apple, Inc.
Microsoft Corp.
Dell Inc.
Intel Corp.
Cisco Systems Inc.
Ingram Micro Inc.
Amazon.com Inc.
Google Inc.
EBay Inc.
Netflix Inc.
Facebook Inc.
Groupon Inc.
Twitter Inc.
LinkedIn Corp.
Zynga Corp.
Hungry Machine Inc. (dba LivingSocial)
Yelp Inc.
Hulu LLC

We consider you to be a representative of news media type of requestor; therefore, only reproduction costs will be assessed in accordance with the rates prescribed by 29 CFR § 70.40(c)(3). As a representative of news media

requestor, the first 100 pages of reproduction shall be furnished without charge.

The OFCCP National Office has conducted a search for materials in formats that was reasonably calculated to uncover all documents or information responsive to the scope and description presented in your FOIA request. We did not find responsive documents to the following organizations for which you are seeking records.

Amazon.com Inc.
Netflix Inc.
Facebook Inc.
Groupon Inc.
Twitter Inc.
LinkedIn Corp.
Zynga Corp.
Hungry Machine Inc. (dba LivingSocial)
Yelp Inc.
Hulu LLC

For the remaining 10 organizations, regarding their EEO-1 Reports, OFCCP has taken the required steps of Executive Order 12600, issued June 23, 1987, and Department of Labor Regulations §70.26, which provide for predisclosure notification to submitters of records containing confidential commercial information when those records are requested under the FOIA, 5 U.S.C. 552(b)(4), because disclosure could reasonably be expected to cause substantial competitive harm. Any objections to the release of the requested records by the information submitter will be evaluated by OFCCP on a case-by-case basis.

OFCCP notified the following companies listed in your FOIA request that a request for their EEO-1 Reports was made.

Hewlett-Packard Co.
International Business Machines Corp. (IBM)
Apple, Inc.
Microsoft Corp.
Dell Inc.
Intel Corp.
Cisco Systems Inc.
Ingram Micro Inc.
Google Inc.
EBay Inc.

Five (5) of the federal contractors listed above submitted written objections to the release of their EEO-1 Reports. The five federal contractors objecting to the release of their EEO-1 Reports are:

Hewlett-Packard Co.
International Business Machines Corp. (IBM)
Apple, Inc.

Microsoft Corp.
Google Inc.

OFCCP reviewed the submitted objection letters and made an independent decision based upon FOIA Exemption 4 criteria. The organizations made mandatory submissions to the government of information described as confidential proprietary trade secret information not released or otherwise made available to the public, or to competitors. The general reasons for the objections to the release of the companies' EEO-1 Reports include that the confidential commercial information could cause competitive harm through the divulgence to competitors of each firms' organizational and operational strategies plus a multitude of organizational behaviors, patterns and trends; cause negative effects on the firms' markets and market segments; the information, if released, would divulge the firms' staffing models which could provide competitors with staff raiding opportunities; most of the objecting companies believe the release of the EEO-1 Reports could have adverse effects upon growth and expansion activities; and most believe the information release could adversely affect products and services.

OFCCP believes that the federal contractors' objections to the release of their EEO-1 Reports provided well defined and reasoned objections to the release of their submitted information based upon business practices and experience. OFCCP has determined it will withhold the federal contractors' information based upon FOIA Exemption 4 criteria.

Only Intel Corp. provided to OFCCP a written statement agreeing to the release of its EEO-1 Reports.

Four (4) federal contractors did not respond to the OFCCP Executive Order 12600 notification. Those contractors are:

Dell Inc.
Cisco Systems Inc.
Ingram Micro Inc.
EBay Inc.

Except for Ingram Micro Inc. for which OFCCP holds EEO-1 Report only for FY2006 and FY2007, OFCCP is releasing on DVDs the EEO-1 reports for the years contained in our database which are from FY2006 through FY2010 for the following five (5) federal contractors:

Dell Inc.
Intel Corp.
Cisco Systems Inc.
Ingram Micro Inc.
EBay Inc.

With this action, the OFCCP National Office has been responsive to your request. Should you disagree, you may file an appeal with the Solicitor of Labor within 90 days from the date of this letter. The appeal must state, in writing,

the grounds for the appeal, including any supporting statement or arguments. To facilitate processing, you may wish to fax your appeal to: [REDACTED] Electronic submissions of FOIA appeals are sent only to [REDACTED] The appeal should include a copy of your initial request and a copy of this letter. The appeal must be addressed to: Solicitor of Labor, U.S. Department of Labor, [REDACTED] 200 Constitution Avenue, N.W., Washington, D.C. 20210. If mailed, both the envelope, and the letter of appeal itself should be clearly marked: "Freedom of Information Act Appeal."

Sincerely,



Cynthia Spishak
Deputy Director, Division of
Management and Administrative Programs